IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPEALLATE SIDE JURISDICTION

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1244 OF 2003
IN
SUIT NO.3821 OF 1999

ICICI Limited ..Plaintiffs
Vs.
Synthetics & Chemicals Ltd. & Ors. ..Defendants
And
Indbank Merchant Banking Serv. Ltd...Applicants
Vs.
The Court Receiver
High Court, Bombay ..Respondents

Ms. M. Nair for applicants
Mr. C.S. Kapadia i/b. M.K. Ambalal &Co. for palintiffs
Mr.M.K. Doshi i/b. Rimadalal & Co. for defendant nos.4 to 7 and 9.

CORAM: S.U.KAMDAR,J.
DATED: 18TH JANUARY, 2005.

P.C.

. The present chamber summons is taken out by the applicant bank for handing over the possession of the leased equipments described in Exhibit-B to the affidavit in support of chamber summons. It is the contention of the plaintiff bank that the Court Receiver, High Court, Bombay who was appointed as receiver in the suit at the instance of plaintiff herein has wrongly taken possession of the properties which actually belongs to the applicant. It is further case of the Bank that in fact the said machineries were given on lease under the lease agreements to the defendant company and that they

are the owners thereof.

2. The learned Counsel appearing for the applicants states that the Court Receiver, High Court, Bombay has wrongly taken possession thereof and therefore, the court receiver should be directed to return back the machineries and equipments which are covered under the lease of documents which are annexed to the affidavit in support of the summons. There is no affidavit in reply filed on behalf of the plaintiff though they are served in 2003.

3. However, the learned Counsel appearing for the plaintiff has contended that no orders should be passed in the present chamber summons because, the applicant must first establish the title to the equipments and/or machineries in Court and then only they can claim return of the said machineries and equipments. The lease documents which are annexed to the affidavit in support of the chamber summons are not disputed either by the company or by the plaintiff herein and therefore, in my opinion the title of the applicant in respect of the said machineries and equipments is established. However, what is required to be established is the identity of the properties of which possession is sought by the applicant pursuant to the said lease documents. In the aforesaid circumstances I make the present chamber summons absolute in terms of prayer clause

(a). It is made clear that before the Court Receiver, High Court Bombay hand over the possession of the said machineries and equipment in pursuance of the present order, the applicant will be required to identify the machineries of which possession is sought in relation to the description of the properties as given in the said lease deeds. The applicant will be at liberty to rely upon the additional documents for the aforesaid purpose. The plaintiff also will be entitled to raise all necessary objections pertaining to the identity of the said machinery and/or equipments. The Court Receiver will hear both the parties before handing over possession of the said equipments and/or machineries. In an event of any difficulties, the Court Receiver to make a report to the Court. The chamber summons is disposed of accordingly.

JUDGE